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(Original Signature of Member)

110TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To extend the Terrorism Insurance Program of the Department of the  
Treasury, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. CAPUANO (for himself and [see ATTACHED LIST of cosponsors]) intro-  
duced the following bill; which was referred to the Committee on

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**A BILL**

To extend the Terrorism Insurance Program of the  
Department of the Treasury, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; REFERENCES.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Terrorism Risk Insurance Revision and Extension Act of  
6       2007”.

7       (b) **REFERENCES.**—Except as otherwise expressly  
8       provided in this Act, wherever in this Act an amendment

1 or repeal is expressed in terms of an amendment to, or  
2 repeal of, a section or other provision, the reference shall  
3 be considered to be made to a section or other provision  
4 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C.  
5 6701 note).

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 Section 101 is amended—

8 (1) in subsection (a)—

9 (A) in paragraph (5), by striking “and” at  
10 the end;

11 (B) by redesignating paragraph (6) as  
12 paragraph (12); and

13 (C) by inserting after paragraph (5) the  
14 following new paragraphs:

15 “(6) the United States Government should co-  
16 ordinate with insurers to provide financial com-  
17 pensation to insured parties for losses from acts of  
18 terrorism, contributing to the stabilization of the  
19 United States economy in a time of national crisis,  
20 and periodically assess the ability of the financial  
21 services industry to develop the systems, mecha-  
22 nisms, products, and programs necessary to create a  
23 viable financial services market for private terrorism  
24 risk insurance that will lessen the financial partici-  
25 pation of the United States Government;

1           “(7) in addition to a terrorist attack on the  
2           United States using conventional means or weapons,  
3           there is and continues to be a potential threat of a  
4           terrorist attack involving the use of unconventional  
5           means or weapons, such as nuclear, biological, chem-  
6           ical, or radiological agents;

7           “(8) as nuclear, biological, chemical or radio-  
8           logical acts of terrorism (known as NBCR terrorism)  
9           present a threat of loss of life, injury, disease and  
10          property damage potentially unparalleled in scope  
11          and complexity by any prior event, natural or man-  
12          made, the Federal Government’s responsibility in  
13          providing for and preserving national economic secu-  
14          rity calls for a strong Federal role in ensuring finan-  
15          cial compensation and economic recovery in the  
16          event of such an attack;

17          “(9) a report issued by the Government Ac-  
18          countability Office in September 2006 concluded  
19          that ‘any purely market-driven expansion of cov-  
20          erage’ for NBCR terrorism risk is ‘highly unlikely in  
21          the foreseeable future’ and the September 2006 re-  
22          port from the President’s Working Group on Finan-  
23          cial Markets concluded that reinsurance for NBCR  
24          terrorist events is virtually unavailable and that  
25          ‘[g]iven the general reluctance of insurance compa-

1       nies to provide coverage for these types of risks,  
2       there may be little potential for future market devel-  
3       opment’;

4           “(10) group life insurance companies are im-  
5       portant financial institutions whose products make  
6       life insurance coverage affordable for millions of  
7       Americans and often serve as their only life insur-  
8       ance benefit;

9           “(11) the group life insurance industry, in the  
10      event of a severe act of terrorism, is vulnerable to  
11      insolvency because high concentrations of covered  
12      employees work in the same locations, because pri-  
13      mary life insurers do not exclude conventional and  
14      NBCR terrorism risks while most catastrophic rein-  
15      surance does exclude such terrorism risks, and be-  
16      cause a large-scale loss of life would fall outside of  
17      actuarial expectations of death; and”;

18           (2) in subsection (b)—

19           (A) in paragraph (1), by striking “for ter-  
20      rorism risk” and inserting the following: “and  
21      group life insurance for all types of terrorism  
22      risk, including conventional terrorism risk and  
23      nuclear, biological, chemical, and radiological  
24      terrorism risk”; and

25           (B) in paragraph (2)—

1 (i) by inserting before the period at  
2 the end the following: “(unless otherwise  
3 preempted by this Act)”; and

4 (ii) by striking the period at the end  
5 and inserting “; and”; and

6 (C) by adding at the end the following new  
7 paragraph:

8 “(3) provide finite liability limits for terrorism  
9 insurance losses for insurers and the United States  
10 Government.”.

11 **SEC. 3. 10-YEAR EXTENSION OF PROGRAM.**

12 (a) **TERMINATION DATE.**—Section 108(a) is amend-  
13 ed by striking “December 31, 2007” and inserting “De-  
14 cember 31, 2017”.

15 (b) **ADDITIONAL PROGRAM YEAR.**—Paragraph (11)  
16 of section 102 is amended by adding at the end the fol-  
17 lowing new subparagraph:

18 “(G) **ADDITIONAL PROGRAM YEAR.**—The  
19 term ‘additional Program Year’ means any ad-  
20 ditional one-year period after Program Year 5  
21 during which the Program is in effect, which  
22 period shall begin on January 1 and end on De-  
23 cember 31 of the same calendar year.”.

24 (c) **INSURER DEDUCTIBLE.**—Section 102(7) is  
25 amended—

1 (1) in subparagraph (F), by striking “and” at  
2 the end; and

3 (2) in subparagraph (G)—

4 (A) by striking “(F)” and inserting “(G)”;  
5 and

6 (B) by redesignating such subparagraph as  
7 subparagraph (H); and

8 (3) by inserting after subparagraph (F) the fol-  
9 lowing:

10 “(G) for each additional Program Year—

11 “(i) with respect to property and cas-  
12 ualty insurance, the value of an insurer’s  
13 direct earned premiums over the calendar  
14 year immediately preceding such Program  
15 Year, multiplied by 20 percent; and”.

16 (d) INSURED LOSS SHARED COMPENSATION.—Sub-  
17 section (e) of section 103 is amended—

18 (1) in paragraph (2)(A), by striking “the pe-  
19 riod” and all that follows through “2 through 5”  
20 and inserting “any additional Program Year”;

21 (2) in paragraph (6)—

22 (A) in subparagraph (D), by striking  
23 “and” at the end;

24 (B) in subparagraph (E), by striking the  
25 period at the end and inserting “; and”; and

1 (C) by adding at the end the following:

2 “(F) for each additional Program Year—

3 “(i) for property and casualty insur-  
4 ance, the lesser of—

5 “(I) \$27,500,000,000; and

6 “(II) the aggregate amount, for  
7 all such insurance, of insured losses  
8 during such Program Year; and”; and

9 (3) in paragraph (7), by striking “period” and  
10 “periods” each place either such term appears and  
11 inserting “Program Year” and “Program Years”,  
12 respectively.

13 **SEC. 4. COVERAGE OF DOMESTIC TERRORISM.**

14 Clause (iv) of section 102(1)(A) is amended by strik-  
15 ing “acting on behalf of any foreign person or foreign in-  
16 terest,”.

17 **SEC. 5. ADJUSTMENT OF PROGRAM TRIGGER.**

18 Section 103(e)(1) is amended—

19 (1) in subparagraph (B), by striking clauses (i)  
20 and (ii) and inserting the following new clause:

21 “(i) \$50,000,000, with respect to such  
22 insured losses occurring in any additional  
23 Program Year; or”; and

24 (2) by redesignating subparagraphs (B) and  
25 (C) as subparagraphs (C) and (D), respectively.

1 **SEC. 6. DEFINITIONS.**

2 Section 102 is amended—

3 (1) in paragraph (3)(C), by inserting before the  
4 period at the end the following: “; except that for  
5 purposes of any proceeding under this subparagraph,  
6 there shall be a presumption that any entity which  
7 directly or indirectly owns, controls, or has power to  
8 vote less than 5 percent of any class of voting secu-  
9 rities of another entity does not have control over  
10 that entity”;

11 (2) in paragraph (4), by striking “paragraph  
12 (5)” and inserting “paragraph (8)”;

13 (3) by redesignating paragraphs (10) through  
14 (16) as paragraphs (15) through (21), respectively;

15 (4) by inserting after paragraph (9) the fol-  
16 lowing new paragraph:

17 “(14) PREVIOUSLY IMPACTED AREA.—

18 “(A) IN GENERAL.—The term ‘impacted  
19 area’ means a geographic area that, after an  
20 act of terrorism, the Secretary determines has  
21 suffered a substantial and direct economic im-  
22 pact as a result of such act of terrorism. In des-  
23 ignating such an area the Secretary shall use  
24 postal zip codes, census tracts, or such other  
25 geographic determinates as the Secretary finds



1 appropriate to provide a clear delineation of the  
2 impacted area.

3 “(B) PREVIOUS ACTS OF TERRORISM.—  
4 Notwithstanding subparagraph (A), the Sec-  
5 retary shall designate as an impacted area any  
6 area within the United States that has, during  
7 the 15-year period ending upon the date of the  
8 enactment of the Terrorism Risk Insurance Re-  
9 vision and Extension Act of 2007, been subject  
10 to an act of violence that—

11 “(i) would have been an act of ter-  
12 rorism for purposes of this Act if this Act  
13 had been in effect at the time of such act  
14 of violence; and

15 “(ii) resulted in insured losses (as  
16 such term is defined in this Act) of at least  
17 \$1,000,000,000 at the time of the event.

18 Any such previous acts of violence shall be con-  
19 sidered acts of terrorism for purposes of para-  
20 graph (11) of this section (relating to insurer  
21 deductible) and section 103(e)(1)(C) (relating  
22 to program trigger).”;

23 (5) by redesignating paragraph (9) as para-  
24 graph (13);

1           (6) by inserting after paragraph (8) the fol-  
2       lowing new paragraph:

3           “(12) NBCR TERRORISM.—The term ‘NBCR  
4       terrorism’ means an act of terrorism that involves  
5       nuclear, biological, chemical, or radiological reac-  
6       tions, releases, or contaminations, to the extent any  
7       insured losses are caused by any such reactions, re-  
8       leases, or contaminations.”;

9           (7) by redesignating paragraphs (5) through  
10       (8) as paragraphs (8) through (11), respectively;

11          (8) by inserting after paragraph (4) the fol-  
12       lowing new paragraphs:

13          “(6) EXCESS INSURED LOSS.—The term ‘excess  
14       insured loss’ means, with respect to a Program  
15       Year, any portion of the amount of insured losses  
16       during such Program Year that exceeds the cap on  
17       annual liability under section 103(e)(2)(A).

18          “(7) GROUP LIFE INSURANCE.—The term  
19       ‘group life insurance’ means an insurance contract  
20       that provides life insurance coverage, including term  
21       life insurance coverage, group universal life insur-  
22       ance coverage, group variable universal life insur-  
23       ance coverage and accidental death coverage, or a  
24       combination thereof, for a number of individuals  
25       under a single contract, on the basis of a group se-

1       lection of risks, but does not include ‘Corporate  
2       Owned Life Insurance’ or ‘Business Owned Life In-  
3       surance,’ each as defined under the Internal Rev-  
4       enue Code of 1986, or any similar product.”;

5           (9) by redesignating paragraphs (3) and (4) as  
6       paragraphs (4) and (5), respectively; and

7           (10) by inserting after paragraph (2) the fol-  
8       lowing new paragraph.

9           “(3) AMOUNT AT RISK.—The term ‘amount at  
10       risk’ means, with respect to group life insurance, the  
11       death benefit less any cash value.”.

12   **SEC. 7. COVERAGE OF GROUP LIFE INSURANCE.**

13       (a) DEFINITIONS.—Section 102, as amended by the  
14       preceding provisions of this Act, is further amended—

15           (1) in paragraph (1)(B)(ii), by inserting “and  
16       group life insurance” before “losses”;

17           (2) in paragraph (8) (relating to insured loss),  
18       as so redesignated by section 6 of this Act, in the  
19       matter preceding subparagraph (A)—

20           (A) by inserting “or group life insurance  
21       as limited to the amount at risk,” after “prop-  
22       erty and casualty insurance”; and

23           (B) by inserting a comma after “insurer”;

24           (3) in paragraph (9) (relating to insurer), as so  
25       redesignated by section 6 of this Act—

1 (A) in subparagraph (A)(i), by inserting “,  
2 or group life insurance,” after “excess insur-  
3 ance”; and

4 (B) in subparagraph (B), by inserting “or,  
5 in the case of group life insurance, that receives  
6 premiums,” after “insurance coverage,”;

7 (4) in paragraph (10) (relating to insurer de-  
8 ductible), as so redesignated by section 6 of this  
9 Act—

10 (A) in subparagraph (G), as added by sec-  
11 tion 3(c)(3) of this Act, by adding at the end  
12 the following new clause:

13 “(ii) with respect to group life insur-  
14 ance, the value of an insurer’s amount at  
15 risk for a covered line of insurance over  
16 the calendar year immediately preceding  
17 such Program Year, multiplied by 0.0351  
18 percent;”; and

19 (B) in subparagraph (H), as so redesign-  
20 ated by section 3(c)(2) of this Act—

21 (i) by inserting “for property and cas-  
22 ualty insurance, and such portion of the  
23 amount at risk for group life insurance,”  
24 after “such portion of the direct earned  
25 premiums”; and

1 (ii) by striking the period at the end  
2 and inserting “and amount at risk;”.

3 (b) SEPARATE RETENTION POOL.—Section  
4 103(e)(6) is amended—

5 (1) in subparagraph (D)(ii), by striking “and”  
6 at the end; and

7 (2) in subparagraph (F), as added by section  
8 3(d)(2)(C) of this Act, by adding at the end the fol-  
9 lowing new clause:

10 “(ii) for group life insurance, the less-  
11 er of—

12 “(I) \$5,000,000,000; and

13 “(II) the aggregate amount, for  
14 all such insurance, of insured losses  
15 during such Program Year.”.

16 (c) SEPARATE RECOUPMENT.—Section 103(e)(7) is  
17 amended—

18 (1) in subparagraph (A)—

19 (A) in the matter preceding clause (i), by  
20 striking “(E)” and inserting “(F)”;

21 (B) in clause (i), by inserting “applicable”  
22 before “insurance”;

23 (C) in clause (ii), by striking “all insurers”  
24 and inserting “all applicable insurers (pursuant  
25 to subparagraph (E))”;

1 (2) in subparagraph (B)—

2 (A) in the heading, by inserting “APPLICA-  
3 BLE” before “INSURANCE”;

4 (B) by striking “(E)” and inserting “(F)”;

5 and

6 (C) by inserting “applicable” before “in-  
7 surance”;

8 (3) in subparagraph (C), by striking “(E)” and  
9 inserting “(F)”;

10 (4) by adding at the end the following new sub-  
11 paragraph:

12 “(E) SEPARATE RECOUPMENT.—“The Sec-  
13 retary shall provide that—

14 “(i) any recoupment under this para-  
15 graph of amounts paid for Federal finan-  
16 cial assistance for insured losses for prop-  
17 erty and casualty insurance shall be made  
18 from an insurer, with respect to its prop-  
19 erty and casualty insurance; and

20 “(ii) any recoupment under this para-  
21 graph of amounts paid for Federal finan-  
22 cial assistance for insured losses for group  
23 life insurance shall be made from an in-  
24 surer, with respect to its group life insur-  
25 ance.”.

1 (d) POLICY SURCHARGE FOR TERRORISM LOSS RISK-  
2 SPREADING PREMIUMS.—Section 103(e)(8) is amended—

3 (1) in subparagraph (A)—

4 (A) in the matter preceding clause (i), by  
5 striking “Any” and inserting “Subject to sub-  
6 paragraph (E), any”;

7 (B) in clause (i), by inserting “, and group  
8 life insurance policies,” after “policies”; and

9 (C) by striking clause (iii) and inserting  
10 the following new clause:

11 “(iii) be based on—

12 “(I) a percentage of the premium  
13 amount charged for property and cas-  
14 ualty insurance coverage under the  
15 policy; and

16 “(II) a percentage of the amount  
17 at risk for covered lines of group life  
18 insurance coverage under the policy.”;  
19 and

20 (2) in subparagraph (C)—

21 (A) by striking the comma after “an an-  
22 nual basis” and all that follows through the end  
23 of the subparagraph and inserting a 2-em dash;  
24 and

25 (B) by adding at the end the following:

1 “(i) with respect to property and cas-  
2 ualty insurance, the amount equal to 3  
3 percent of the premium charged under the  
4 policy; and

5 “(ii) with respect to group life insur-  
6 ance, the amount equal to 0.0053 percent  
7 of the amount at risk for covered lines  
8 under the policy.”.

9 **SEC. 8. COVERAGE FOR NUCLEAR, BIOLOGICAL, CHEMICAL,**  
10 **AND RADIOLOGICAL EVENTS.**

11 (a) CERTIFICATION.—Section 102(1) is amended—

12 (1) in subparagraph (C), by inserting “or as an  
13 act of NBCR terrorism” after “act of terrorism”;

14 (2) in subparagraph (D), by inserting “, includ-  
15 ing an act of NBCR terrorism,” after “act of ter-  
16 rorism”;

17 (3) by redesignating subparagraphs (C) and  
18 (D) as subparagraphs (D) and (E), respectively; and

19 (4) by inserting after subparagraph (B) the fol-  
20 lowing new subparagraph:

21 “(C) CERTIFICATION OF ACTS OF NBCR  
22 TERRORISM.—Upon certification of an act of  
23 terrorism, the Secretary, in concurrence with  
24 the Secretary of State, and the Attorney Gen-  
25 eral of the United States, shall determine



1           whether the act of terrorism meets the defini-  
2           tion of NBCR terrorism in this section. If such  
3           determination is that the act does meet such  
4           definition, the Secretary shall specifically certify  
5           such act as an act of NBCR terrorism.”.

6           (b) MANDATORY AVAILABILITY.—Section 103(c) is  
7   amended—

8           (1) in paragraph (1)—

9                   (A) by striking “property and casualty in-  
10           insurance policies” and inserting “insurance poli-  
11           cies for covered lines”; and

12                   (B) by striking “; and” and inserting the  
13           following: “, except for losses resulting from an  
14           act of NBCR terrorism;”;

15           (2) in paragraph (2)—

16                   (A) by striking “property and casualty”  
17           and inserting “, for covered lines,”;

18                   (B) by striking the period at the end and  
19           inserting a semicolon; and

20           (3) by adding after paragraph (2) the following  
21   new paragraph:

22                   “(3) shall make available, to any person who  
23           elects coverage under paragraph (1) for a covered  
24           line and notwithstanding any nuclear hazard or pol-  
25           lution exclusion in a policy that otherwise would be

1 applicable, coverage for such covered line for losses  
2 resulting from NBCR terrorism; and”.

3 (c) INSURER DEDUCTIBLE.—Paragraph (10) of sec-  
4 tion 102, as so redesignated by the preceding provisions  
5 of this Act, is amended by adding at the end the following  
6 new subparagraph:

7 “(I) notwithstanding subparagraphs (A)  
8 through (H), in the case of any act of NBCR  
9 terrorism, for any additional Program Year—

10 “(i) with respect to property and cas-  
11 ualty insurance, the value of an insurer’s  
12 direct earned premiums over the calendar  
13 year immediately preceding such Program  
14 Year, multiplied by 7.5 percent; and

15 “(ii) with respect to group life insur-  
16 ance, the value of an insurer’s amount at  
17 risk for a covered line of insurance over  
18 the calendar year immediately preceding  
19 such Program Year, multiplied by 0.0132  
20 percent; and”.

21 (d) RATE AND FORM FILINGS.—Section 106(a)(2) is  
22 amended—

23 (1) in subparagraph (B), by striking “and” at  
24 the end;

1           (2) by redesignating subparagraph (C) as sub-  
2       paragraph (D); and

3           (3) by inserting after subparagraph (B) the fol-  
4       lowing new subparagraph:

5           “(C) during the period beginning on the  
6       date of the enactment of the Terrorism Risk In-  
7       surance Revision and Extension Act of 2007  
8       and ending on December 31, 2008, rates and  
9       forms for property and casualty insurance cov-  
10      ered by this title and providing coverage for  
11      NBCR terrorism that are filed with any State  
12      shall not be subject to prior approval or a wait-  
13      ing period under any law of a State that would  
14      otherwise be applicable, except that nothing in  
15      this title affects the ability of any State to in-  
16      validate a rate as excessive, inadequate, or un-  
17      fairly discriminatory, and, with respect to  
18      forms, where a State has prior approval author-  
19      ity, it shall apply to allow subsequent review of  
20      such forms; and”.

21   **SEC. 9. INSURED LOSS SHARED COMPENSATION.**

22       (a) INSURER COPAYMENT; FEDERAL SHARE OF  
23   COMPENSATION.—Section 103(e)(1) is amended by strik-  
24   ing subparagraph (A) and inserting the following new sub-  
25   paragraphs:

1           “(A) CONVENTIONAL TERRORISM.—Except  
2           as provided in subparagraph (B), the Federal  
3           share of compensation under the Program to be  
4           paid by the Secretary for insured losses of an  
5           insurer during any additional Program Year  
6           shall be equal to the sum of—

7                   “(i) 85 percent of that portion of the  
8                   amount of such insured losses that—

9                           “(I) exceeds the applicable in-  
10                           surer deductible required to be paid  
11                           during such Program Year; and

12                           “(II) based upon pro rata deter-  
13                           minations pursuant to paragraph  
14                           (2)(B), does not contribute to aggre-  
15                           gate industry insured losses during  
16                           such Program Year exceeding  
17                           \$100,000,000,000; and

18                           “(ii) 100 percent of the insured losses  
19                           of the insurer that, based upon pro rata  
20                           determinations pursuant to paragraph  
21                           (2)(B), contributes to aggregate industry  
22                           insured losses during such Program Year  
23                           exceeding \$100,000,000,000, up to the  
24                           limit under paragraph (2)(A).

25           “(B) NBCR TERRORISM.—

1 “(i) AMOUNT OF COMPENSATION.—

2 The Federal share of compensation under  
3 the Program to be paid by the Secretary  
4 for insured losses of an insurer resulting  
5 from NBCR terrorism during any addi-  
6 tional Program Year shall be equal to the  
7 sum of—

8 “(I) the amount of qualified  
9 NBCR losses (as such term is defined  
10 in clause (ii)) of the insurer, multi-  
11 plied by a percentage based on the ag-  
12 gregate industry qualified NBCR  
13 losses for the Program Year, which  
14 percentage shall be—

15 “(aa) 85 percent of such ag-  
16 gregate industry qualified NBCR  
17 losses of less than  
18 \$10,000,000,000;

19 “(bb) 87.5 percent of such  
20 aggregate industry qualified  
21 NBCR losses between  
22 \$10,000,000,000 and  
23 \$20,000,000,000;

24 “(cc) 90 percent of such ag-  
25 gregate industry qualified NBCR

1 losses between \$20,000,000,000  
2 and \$40,000,000,000;

3 “(dd) 92.5 percent of such  
4 aggregate industry qualified  
5 NBCR losses of between  
6 \$40,000,000,000 and  
7 \$60,000,000,000; and

8 “(ee) 95 percent of such ag-  
9 gregate industry qualified NBCR  
10 losses of more than  
11 \$60,000,000,000;

12 and shall be prorated per insurer  
13 based on each insurer’s percentage of  
14 the aggregate industry qualified  
15 NBCR losses for such additional Pro-  
16 gram Year; and

17 “(II) 100 percent of the insured  
18 losses of the insurer resulting from  
19 NBCR terrorism that, based upon pro  
20 rata determinations pursuant to para-  
21 graph (2)(B), contributes to aggregate  
22 industry insured losses during such  
23 Program Year exceeding  
24 \$100,000,000,000, up to the limit  
25 under paragraph (2)(A).

1 “(ii) QUALIFIED NBCR LOSSES.—For  
2 purposes of this subparagraph, the term  
3 ‘qualified NBCR losses’ means, with re-  
4 spect to insured losses of an insurer result-  
5 ing from NBCR terrorism during an addi-  
6 tional Program Year, that portion of the  
7 amount of such insured losses that—

8 “(I) exceeds the applicable in-  
9 surer deductible required to be paid  
10 during such Program Year; and

11 “(II) based upon pro rata deter-  
12 minations pursuant to paragraph  
13 (2)(B), does not contribute to aggre-  
14 gate industry insured losses during  
15 such Program Year exceeding  
16 \$100,000,000,000.”.

17 (b) CAP ON ANNUAL LIABILITY; CLAIMS ALLOCA-  
18 TIONS.—

19 (1) IN GENERAL.—Section 103(e)(2) is amend-  
20 ed—

21 (A) in subparagraph (A)—

22 (i) in the matter preceding clause

23 (i)—

24 (I) by inserting after “State  
25 law,” the following: “including any

1 State workers' compensation or other  
2 compulsory insurance law,"; and

3 (II) by striking "aggregate in-  
4 sured losses exceed" and inserting  
5 "aggregate amount of the Federal  
6 share of compensation to be paid to  
7 all insurers pursuant to paragraph  
8 (1)(A) exceeds";

9 (ii) in clause (i), by striking "such  
10 losses that" and inserting "the aggregate  
11 insured losses during such Program Year  
12 for which the Federal share"; and

13 (iii) in clause (ii), by striking "that  
14 amount that" and inserting "the aggregate  
15 insured losses during such Program Year  
16 for which the Federal share"; and

17 (B) by adding at the end the following new  
18 subparagraph:

19 "(C) CLAIMS ALLOCATIONS.—The Sec-  
20 retary shall, by regulation, provide for insurers  
21 to allocate claims payments for insured losses  
22 under applicable insurance policies in any case  
23 described in subparagraph (A). Such regula-  
24 tions shall include provisions for payment, for  
25 the purpose of addressing emergency needs of



1 applicable persons affected by an act of ter-  
2 rorism, of a portion of claims for insured losses  
3 promptly upon filing of such claims.”.

4 (2) REGULATIONS.—The Secretary of the  
5 Treasury shall issue the regulations referred to in  
6 the amendment made by paragraph (1)(B), and to  
7 carry out section 103(e)(2)(B) of the Terrorism Risk  
8 Insurance Act of 2002, not later than the expiration  
9 of the 120-day period beginning upon the date of the  
10 enactment of this Act.

11 (c) LIMITATION ON INSURER FINANCIAL RESPONSI-  
12 BILITY; NOTIFICATION OF LOSSES.—Section 103(e) is  
13 amended—

14 (1) by redesignating paragraphs (4) through  
15 (8) (as amended by the preceding provisions of this  
16 Act) as paragraphs (5) through (9), respectively;  
17 and

18 (2) by striking paragraph (3) and inserting the  
19 following new paragraphs:

20 “(3) LIMITATION ON INSURER FINANCIAL RE-  
21 SPONSIBILITY.—

22 “(A) LIMITATION.—Notwithstanding any  
23 other provision of Federal or State law, includ-  
24 ing any State workers’ compensation or other  
25 compulsory insurance law, an insurer’s financial

1 responsibility for insured losses from acts of  
2 terrorism shall be limited to its applicable in-  
3 surer deductible and its applicable quota share  
4 of insured losses determined pursuant to the  
5 applicable provisions of section 102(10) and  
6 paragraph (1)(A) of this subsection, respec-  
7 tively, and subject to the requirements of para-  
8 graph (2)(B) of this subsection.

9 “(B) FEDERAL REIMBURSEMENT.—Not-  
10 withstanding any other provision of Federal or  
11 State law, the Secretary shall—

12 “(i) reimburse insurers for any pay-  
13 ment of excess insured losses made prior to  
14 publication of any notification pursuant to  
15 paragraph (4)(A);

16 “(ii) reimburse insurers for any pay-  
17 ment of excess insured losses occurring on  
18 or after the date of any notification pursu-  
19 ant to paragraph (4)(A), but only to the  
20 extent that—

21 “(I) such payment is ordered by  
22 a court pursuant to subparagraph (C)  
23 of this paragraph or is directed by  
24 State law, notwithstanding this para-  
25 graph, or by Federal law;

1 “(II) such payment is limited to  
2 compensating insurers for their pay-  
3 ment of excess insured losses and does  
4 not include punitive damages, or liti-  
5 gation or other costs; and

6 “(III) the insurer has made a  
7 good faith effort to defend against  
8 any claims for such payment; and

9 “(iii) have the right to intervene in  
10 any legal proceedings relating to such  
11 claims specified in clause (ii)(III).

12 “(C) FEDERAL COURT JURISDICTION.—

13 “(i) CONDITIONS.—All claims relating  
14 to or arising out of an insurer’s financial  
15 responsibility for insured losses from acts  
16 of terrorism under this section shall be  
17 within the original and exclusive jurisdic-  
18 tion of the district courts of the United  
19 States, in accordance with the procedures  
20 established in subparagraph (D), if the  
21 Secretary certifies that the following condi-  
22 tions have been met, or that there is a rea-  
23 sonable likelihood that the following condi-  
24 tions may be met:

1                   “(I) The aggregate amount of  
2                   the Federal share of compensation to  
3                   be paid to all insurers pursuant to  
4                   paragraph (1)(A) exceeds  
5                   \$100,000,000,000, pursuant to para-  
6                   graph (2); and

7                   “(II) the insurer has paid its ap-  
8                   plicable insurer deductible and its pro  
9                   rata share of insured losses deter-  
10                  mined pursuant to paragraph (2)(B).

11                  “(ii) REMOVAL OF STATE COURT AC-  
12                  TIONS.—If the Secretary certifies that con-  
13                  ditions set forth in subclauses (I) and (II)  
14                  of clause (i) have been met, all pending  
15                  State court actions that relate to or arise  
16                  out of an insurer’s financial responsibility  
17                  for insured losses from acts of terrorism  
18                  under this section shall be removed to a  
19                  district court of the United States in ac-  
20                  cordance with subparagraph (D).

21                  “(D) VENUE.—For each determination  
22                  made by the Secretary pursuant to subpara-  
23                  graph (C)(i), not later than 90 days after the  
24                  Secretary’s determination the Judicial Panel on  
25                  Multidistrict Litigation shall designate one dis-

1           trict court or, if necessary, multiple district  
2           courts of the United States that shall have  
3           original and exclusive jurisdiction over all ac-  
4           tions for any claim relating to or arising out of  
5           an insurers financial responsibility for insured  
6           losses from acts of terrorism under this section.

7           “(4) NOTICES REGARDING LOSSES AND AN-  
8           NUAL LIABILITY CAP.—

9                   “(A) APPROACHING CAP.—If the Secretary  
10           determines estimated or actual aggregate Fed-  
11           eral compensation to be paid pursuant to para-  
12           graph (1) equals or exceeds \$80,000,000,000  
13           during any Program Year, the Secretary shall  
14           promptly provide notification in accordance with  
15           subparagraph (D)—

16                   “(i) of such estimated or actual aggre-  
17           gate Federal compensation to be paid;

18                   “(ii) of the likelihood that such aggre-  
19           gate Federal compensation to be paid for  
20           such Program Year will equal or exceed  
21           \$100,000,000,000; and

22                   “(iii) that, pursuant to paragraph  
23           (2)(A)(ii), insurers are not required to  
24           make payments of excess insured losses.

1           “(B) EVENT LIKELY TO CAUSE LOSSES TO  
2           EXCEED CAP.—If any act of terrorism occurs  
3           that the Secretary determines is likely to cause  
4           estimated or actual aggregate Federal com-  
5           pensation to be paid pursuant to paragraph (1)  
6           to exceed \$100,000,000,000 during any Pro-  
7           gram Year, the Secretary shall, not later than  
8           10 days after such act, provide notification in  
9           accordance with subparagraph (D)—

10                   “(i) of such estimated or actual aggre-  
11                   gate Federal compensation to be paid; and

12                   “(ii) that, pursuant to paragraph  
13                   (2)(A)(ii), insurers are not required to  
14                   make payments for excess insured losses.

15           “(C) EXCEEDING OF CAP.—If the Sec-  
16           retary determines estimated or actual aggregate  
17           Federal compensation to be paid pursuant to  
18           paragraph (1) equals or exceeds  
19           \$100,000,000,000 during any Program Year—

20                   “(i) the Secretary shall promptly pro-  
21                   vide notification in accordance with sub-  
22                   paragraph (D)—

23                   “(I) of such estimated or actual  
24                   aggregate Federal compensation to be  
25                   paid; and

1 “(II) that, pursuant to paragraph  
2 (2)(A)(ii), insurers are not required to  
3 make payments for excess insured  
4 losses unless the Congress provides  
5 for payments for excess insured losses  
6 pursuant to clause (ii) of this sub-  
7 paragraph; and

8 “(ii) the Congress shall determine the  
9 procedures for and the source of any pay-  
10 ments for such excess insured losses.

11 “(D) PARTIES NOTIFIED.—Notification is  
12 provided in accordance with this subparagraph  
13 only if notification is provided—

14 “(i) to the Congress, in writing; and

15 “(ii) to insurers, by causing such no-  
16 tice to be published in the Federal Reg-  
17 ister.

18 “(E) DETERMINATIONS.—The Secretary  
19 shall make determinations regarding estimated  
20 and actual aggregate Federal compensation to  
21 be paid promptly after any act of terrorism as  
22 may be necessary to comply with this para-  
23 graph.

24 “(F) MANDATORY DISCLOSURE FOR IN-  
25 SURANCE CONTRACTS.—All policies for property

1           and casualty insurance and group life insurance  
2           shall be deemed to contain a provision to the ef-  
3           fect that no insurer that has met its applicable  
4           insurer deductible and applicable quota share  
5           shall be obligated to pay for any portion of ex-  
6           cess insured loss. Notwithstanding the pre-  
7           ceding sentence, insurers shall include a disclo-  
8           sure in their policies detailing the maximum  
9           level of Government assistance and the applica-  
10          ble insurer share.”.

11          (d) CONFORMING AMENDMENTS.—The Act is amend-  
12          ed—

13               (1) in section 103(e)—

14                   (A) in paragraph (7), as so redesignated  
15                   by subsection (c)(1) of this section, by striking  
16                   “paragraph (7)” and inserting “paragraph  
17                   (8)”;

18                   (B) in paragraph (8), as so redesignated  
19                   by subsection (c)(1) of this section, by striking  
20                   “paragraph (6)” each place such term appears  
21                   and inserting “paragraph (7)”; and

22                   (C) in paragraph (9)(C), as so redesign-  
23                   ated by subsection (c)(1) of this section, by  
24                   striking “paragraph (7)(D)” and inserting  
25                   “paragraph (8)(D)”; and



1           (2) in section 108(c)(1), by striking “paragraph  
2           (4), (5), (6), (7), or (8)” and inserting “paragraph  
3           (5), (6), (7), (8), or (9)”.

4   **SEC. 10. POST-EVENT RESET FOR PREVIOUSLY IMPACTED**  
5           **AREAS.**

6           (a) **INSURER DEDUCTIBLES.**—Paragraph (10) of sec-  
7   tion 102, as so redesignated by the preceding provisions  
8   of this Act, is amended by adding at the end the following  
9   new subparagraph:

10                   “(J) if aggregate industry insured losses  
11           arising from an act of terrorism in a previously  
12           impacted area exceed \$1,000,000,000, the in-  
13           surer deductibles otherwise applicable under  
14           this paragraph of any insurers that sustain in-  
15           sured losses arising from any subsequent act of  
16           terrorism in the same previously impacted area  
17           shall be reduced for the Program Year in which  
18           such subsequent act of terrorism occurred and  
19           each Program Year thereafter by 1 percent for  
20           each \$1,000,000,000 in aggregate industry in-  
21           sured losses as a result of the previous act of  
22           terrorism in such previously impacted area, ex-  
23           cept that no insurer deductible for any Program  
24           Year shall be reduced below 5 percent.”.

1 (b) PROGRAM TRIGGER.—Subparagraph (C) of sec-  
2 tion 103(e)(1), as amended by the preceding provisions of  
3 this Act and so redesignated by section 5(2) of this Act,  
4 is further amended by adding at the end the following new  
5 clause:

6 “(ii) in the case of any certified act of  
7 terrorism in any previously impacted area,  
8 the amount provided under clause (i), as  
9 reduced by \$10,000,000 for each  
10 \$1,000,000,000 in aggregate industry in-  
11 sured losses that were sustained as a result  
12 of a previous act of terrorism in the same  
13 impacted area, except that in no case may  
14 such amount be reduced below the amount  
15 specified in section 102(1)(B)(ii).”.

16 **SEC. 11. MANDATORY AVAILABILITY OF LIFE INSURANCE**  
17 **THAT DOES NOT PRECLUDE FUTURE LAWFUL**  
18 **TRAVEL.**

19 Subsection (c) of section 103, as amended by the pre-  
20 ceding provisions of this Act, is further amended by add-  
21 ing at the end the following new paragraph:

22 “(4) shall make available, in all of its life insur-  
23 ance policies issued after the date of the enactment  
24 of the Terrorism Risk Insurance Revision and Ex-  
25 tension Act of 2007 under which the insured person

1 is a citizen of the United States or an alien lawfully  
2 admitted for permanent residence in the United  
3 States, coverage that neither considers past, nor pre-  
4 cludes future, lawful foreign travel by the person in-  
5 sured, and shall not decline such coverage based on  
6 past or future, lawful foreign travel by the person  
7 insured or charge a premium for such coverage that  
8 is excessive and not based on a good faith actuarial  
9 analysis, except that an insurer may decline or, upon  
10 inception or renewal of a policy, limit the amount of  
11 coverage provided under any life insurance policy  
12 based on plans to engage in future lawful foreign  
13 travel to occur within 12 months of such inception  
14 or renewal of the policy but only if, at time of appli-  
15 cation—

16 “(A) such declination is based on, or such  
17 limitation applies only with respect to, travel to  
18 a foreign destination—

19 “(i) for which the Director of the Cen-  
20 ters for Disease Control and Prevention of  
21 the Department of Health and Human  
22 Services has issued a highest level alert or  
23 warning, including a recommendation  
24 against non-essential travel, due to a seri-  
25 ous health-related condition;

1 “(ii) in which there is an ongoing  
2 military conflict involving the armed forces  
3 of a sovereign nation other than the nation  
4 to which the insured person is traveling; or

5 “(iii)(I) that the insurer has specifi-  
6 cally designated in the terms of the life in-  
7 surance policy at the inception of the pol-  
8 icy or at renewal, as applicable; and

9 “(II) with respect to which the insurer  
10 has made a good faith determination  
11 that—

12 “(aa) a serious unlawful situation  
13 exists which is ongoing; and

14 “(bb) the credibility of informa-  
15 tion by which the insurer can verify  
16 the death of the insured person is  
17 compromised; and

18 “(B) in the case of any limitation of cov-  
19 erage, such limitation is specifically stated in  
20 the terms of the life insurance policy at the in-  
21 ception of the policy or at renewal, as applica-  
22 ble.”.

23 **SEC. 12. EXPEDITED RULEMAKING.**

24 Subsection (a) of section 104 is amended—

1 (1) in paragraph (1), by striking “and” at the  
2 end;

3 (2) in paragraph (2), by striking the period and  
4 inserting “; and”; and

5 (3) by adding at the end the following new  
6 paragraph:

7 “(3) during the 90-day period beginning upon  
8 the certification of any act of terrorism, to issue  
9 such regulations as the Secretary considers nec-  
10 essary to carry out this Act without regard to the  
11 notice and comment provisions of section 553 of title  
12 5, United States Code.”.

13 **SEC. 13. ANALYSIS AND STUDY.**

14 (a) ANALYSIS OF MARKET CONDITIONS.—Section  
15 108 is amended by striking subsection (e) and inserting  
16 the following:

17 “(e) ANALYSIS OF MARKET CONDITIONS FOR TER-  
18 RORISM RISK INSURANCE.—

19 “(1) IN GENERAL.—The President’s Working  
20 Group on Financial Markets, in consultation with  
21 the NAIC, representatives of the insurance industry,  
22 representatives of the securities industry, and rep-  
23 resentatives of policyholders, shall perform an anal-  
24 ysis regarding the long-term availability and afford-

1 ability of insurance for terrorism risk in the private  
2 marketplace, including coverage for—

3 “(A) property and casualty insurance;

4 “(B) group life insurance;

5 “(C) workers’ compensation; and

6 “(D) nuclear, biological, chemical, and ra-  
7 diological events.

8 “(2) REPORT.—The President’s Working Group  
9 on Financial Markets shall submit three reports to  
10 the Committee on Financial Services of the House of  
11 Representatives and the Committee on Banking,  
12 Housing, and Urban Affairs of the Senate, on its  
13 findings pursuant to the analysis conducted under  
14 paragraph (1), as follows:

15 “(A) An initial report, which shall be sub-  
16 mitted before the expiration of the 36-month  
17 period beginning on the date of the enactment  
18 of the Terrorism Risk Insurance Revision and  
19 Extension Act of 2007;

20 “(B) A second report, which shall be sub-  
21 mitted before the expiration of the 72-month  
22 period beginning on the date of the enactment  
23 of such Act.

24 “(C) A final report, which shall be sub-  
25 mitted before the expiration of the 108-month

1           period beginning on the date of the enactment  
2           of such Act.”.

3           (b) COMMISSION ON TERRORISM RISK INSURANCE.—

4 Title I is amended by adding at the end the following new  
5 section:

6 **“SEC. 109. COMMISSION ON TERRORISM RISK INSURANCE.**

7           “(a) ESTABLISHMENT.—There is hereby established  
8 the Commission on Terrorism Risk Insurance (in this sec-  
9 tion referred to as the ‘Commission’).

10          “(b) MEMBERSHIP.—

11               “(1) The Commission shall consist of 19 mem-  
12 bers, as follows:

13                   “(A) The Secretary of the Treasury or the  
14 designee of the Secretary.

15                   “(B) One member who is a State insur-  
16 ance commissioner, designated by the NAIC.

17                   “(C) 13 members, who shall be appointed  
18 by the President, who shall include—

19                           “(i) a representative of group life in-  
20 surers;

21                           “(ii) a representative of property and  
22 casualty insurers with direct written pre-  
23 mium of \$1,000,000,000 or less;

1 “(iii) a representative of property and  
2 casualty insurers with direct written pre-  
3 mium of more than \$1,000,000,000;

4 “(iv) a representative of multiline in-  
5 surers;

6 “(v) a representative of independent  
7 insurance agents;

8 “(vi) a representative of insurance  
9 brokers;

10 “(vii) a policyholder representative;

11 “(viii) a representative of the sur-  
12 vivors of the victims of the attacks of Sep-  
13 tember 11, 2001;

14 “(ix) a representative of the reinsur-  
15 ance industry;

16 “(x) a representative of workers’ com-  
17 pensation insurers;

18 “(xi) a representative from the com-  
19 mercial mortgage-backed securities indus-  
20 try;

21 “(xii) a representative from a nation-  
22 ally recognized statistical rating organiza-  
23 tion; and

24 “(xiii) a real estate developer.



1           “(D) Four members, who shall serve as li-  
2           aisons to the Congress, who shall include two  
3           members jointly selected by the Chairman and  
4           Ranking Member of the Committee on Finan-  
5           cial Services of the House of Representatives  
6           and two members jointly selected by the Chair-  
7           man and Ranking Member of the Committee on  
8           Banking, Housing, and Urban Affairs of the  
9           Senate.

10          “(2) SECRETARY.—The Program Director of  
11          the Terrorism Risk Insurance Act of the Depart-  
12          ment of the Treasury shall serve as Secretary of the  
13          Commission. The Secretary of the Commission shall  
14          determine the manner in which the Commission  
15          shall operate, including funding and staffing.

16          “(c) DUTIES.—

17               “(1) IN GENERAL.—The Commission shall iden-  
18          tify and make recommendations regarding—

19                   “(A) possible actions to encourage, facili-  
20                   tate, and sustain provision by the private insur-  
21                   ance industry in the United States of affordable  
22                   coverage for losses due to an act or acts of ter-  
23                   rorism;

24                   “(B) possible actions or mechanisms to  
25                   sustain or supplement the ability of the insur-

1           ance industry in the United States to cover  
2           losses resulting from acts of terrorism in the  
3           event that—

4                   “(i) such losses jeopardize the capital  
5                   and surplus of the insurance industry in  
6                   the United States as a whole; or

7                   “(ii) other consequences from such  
8                   acts occur, as determined by the Commis-  
9                   sion, that may significantly affect the abil-  
10                  ity of the insurance industry in the United  
11                  States to cover such losses independently;  
12                  and

13                  “(C) significantly reducing the expected  
14                  Federal role over time in any continuing Fed-  
15                  eral terrorism risk insurance program.

16                  “(2) EVALUATIONS.—In identifying and mak-  
17                  ing the recommendations required under paragraph  
18                  (1), the Commission shall specifically evaluate the  
19                  utility and viability of proposals aimed at improving  
20                  the availability of insurance against terrorism risk in  
21                  the private marketplace.

22                  “(3) INITIAL MEETING.—The Commission shall  
23                  hold its first meeting during the 3-month period that  
24                  begins 15 months after the date of the enactment of  
25                  this Act.

1 “(4) REPORTS.—

2 “(A) CONTENTS.—The Commission shall  
3 submit two reports to the Congress that—

4 “(i) evaluate and make recommenda-  
5 tions regarding whether there is a need for  
6 a Federal terrorism risk insurance pro-  
7 gram;

8 “(ii) if so, include a specific, detailed  
9 recommendation for the replacement of the  
10 Program under this title; and

11 “(iii) include the identifications, eval-  
12 uations, and recommendations required  
13 under paragraphs (1) and (2).

14 “(B) TIMING.—The first report required  
15 under subparagraph (A) shall be submitted be-  
16 fore the expiration of the 60-month period be-  
17 ginning on the date of the enactment of the  
18 Terrorism Risk Insurance Revision and Exten-  
19 sion Act of 2007. The second such report shall  
20 be submitted before the expiration of the 96-  
21 month period beginning upon such date of en-  
22 actment.”.

23 **SEC. 14. APPLICABILITY.**

24 The amendments made by this Act shall apply begin-  
25 ning on January 1, 2008. The provisions of the Terrorism

- 1 Risk Insurance Act of 2002, as in effect on the day before
- 2 the date of the enactment of this Act, shall apply through
- 3 the end of December 31, 2007.